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TOWN OF SMITHFIELD

COMMERCIAL-INDUSTRIAL SITE PLAN REVIEW ORDINANCE

ADOPTED: March 14, 1983

AMENDMENTS: March 10, 1990, March 14, 1992

1. PURPOSE

The purpose of Site Plan Review of proposed commercial, industrial, refuse disposal, office, multi-family, municipal, institutional, educational, or recreational land uses or buildings is to:

- A. Encourage originality, flexibility, and innovation in site planning and development;
- B. Discourage unsafe or inharmonious development by ensuring that structures, signs, and other improvements are properly related to their sites and to surrounding sites, roads, and structures, with due regard to the natural terrain, landscaping, and the built environment;
- C. Protect and enhance the town's appeal and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial, and industrial properties;
- D. Stabilize and improve property values and prevent blighted areas, and thus increase tax revenues;
- E. Reduce the adverse off-site impact of development, thereby decreasing the cost of municipal facilities and maintenance; and
- F. Avoid harmful or bothersome external effects of any land use which, by reason of noise, smoke, fumes, dust, odor, glare, or traffic, is likely to create or become a nuisance to existing neighboring land users.

Single-family and two-family housing is exempted from this ordinance. Home occupations and small-scale workshops shall be exempted from this Ordinance if the criteria and standards in Section 3 below would not be violated. If a complaint is made, the Planning Board shall determine what action must be taken, if any, to conform to the criteria and standards in Section 3.

2. DATA REQUIREMENTS

- A. **General:** Any site plan presented for approval shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless waived by the Planning Board:
 - (1) An appropriate place for the signatures of the Planning Board.
 - (2) A date, scale, and arrow showing both true and magnetic north.
 - (3) The zoning district where the premises in question is located.

- (4) All existing and proposed setback dimensions.
- (5) All landscaped areas, fencing, and size and type of plant material upon the premises in question.
- (6) All proposed signs and their size, location, and direction of illumination.
- (7) All existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances.
- (8) Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures on adjacent lots.
- (9) All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.
- (10) The location, type, and size of all existing and proposed catch basins, storm drainage facilities, streams, and watercourses, and all utilities, both above and belowground.
- (11) The location, type, and size of all pedestrian ways, driveways, fences, retaining walls, parking space areas, and the layouts thereof, together with the dimensions.
- (12) All existing or proposed rights-of-way, easements, and other encumbrances which may affect the premises in question.
- (13) The location, names, and widths of all existing and proposed streets abutting the premises in question.
- (14) The property lines of all abutting properties, including those across the street, together with the names and addresses of the owners as disclosed on the tax maps on file in the town office as of the date of the Site Plan Review Application.
- (15) Any and all other information and data necessary for proper review, and in conformance with all requirements set forth in the Smithfield Subdivision Review Standards.

3. CRITERIA AND STANDARDS

- A. The following standards shall be utilized by the Planning Board in reviewing the plans, drawings, sketches, and other documents required under Section 2. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the Planning Board. These standards shall be regarded as flexible requirements. They are intended to encourage creativity, invention, and innovation.

- (1) Traffic: With respect to vehicular and pedestrian circulation (including walkways, interior drives, and parking) special attention shall be given to location and number of access points (especially with respect to intersections schools, other traffic generators, etc.), general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are adequate, safe, and convenient.
- (2) Relation of Proposed Buildings: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings. Overcrowding of the land or buildings shall be avoided, and safety from fire, flooding and other dangers shall be assured.
- (3) Preservation of Landscape: The landscape shall be preserved in the natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. In addition, the natural state of all watercourses, swales, floodways, or rights-of-way shall be maintained as nearly as possible.
- (4) Noise: Noise shall be required to be muffled so as not to be objectionable due to intermittence, heat frequency, shrillness, or volume.
- (5) Odor: No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation. The Planning Board shall be reasonable with respect to odors perceptible only for a short duration. All such activities shall comply with applicable Federal and State regulations.
- (6) Glare: No land use or establishment shall be permitted to produce as strong, dazzling light, or reflection of that light, beyond its lot lines onto adjacent properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.
- (7) Dust, Fumes, Vapors, and Gases: Emissions of dust, dirt, fly ash fumes, vapors, or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. All such activities shall comply with applicable Federal and State regulations.
- (8) Utility Services: Any utility installation shall be located harmoniously in relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated.

- (9) Storm Water: Storm water runoff shall be minimized and detained on site, if possible or practicable. If it is not possible to detain water on site, the drainage shall be designed for adequate disposition of surface water in accordance with standards established by the Planning Board.
- (10) Erosion Control: Erosion of soil and sedimentation of watercourse and water bodies shall be minimized by employing the following "best-managed" practices:
 - (a) Stripping of vegetation, regarding, or other development shall be done in such a way so as to minimize erosion.
 - (b) The duration of exposure of the disturbed area shall be kept to a practical minimum.
 - (c) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
 - (d) Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.
 - (e) Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods, as determined by the Planning Board.
 - (f) The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board.
 - (g) During grading operations, methods of dust control shall be employed.

4. ADMINISTRATION

- A. Application Form and Fee: All applications for Site Plan Review shall be filed in duplicate and a fee of \$25.00 shall be paid to the Town of Smithfield when the application is filed. Appropriate application forms shall be made available at the Smithfield Town Office.
- B. Approval:
 - (1) A Site Plan, meeting the standards of the ordinance shall be reviewed and approved by the Planning Board before the start or resumption of any activity listed in Section 1 under "Purpose".

Site Plan Review pertains to new construction, additions, or alterations to any existing structure, the resumption of any use on a continual commercial basis which has been discontinued for at least two (2) years, or to any substantial increase or expansion in the volume or intensity of usage. In all cases where alternations will not significantly change the nature of the intensity of the use, or the exterior dimensions of any existing building, the Planning Board may pass upon the review procedure and waive the Site Plan requirements in order that the project may be expedited. No changes shall be

made in any Site Plan approved by the Planning Board without approval of that change of the Planning Board.

- (2) The Planning Board shall complete their review and render a written decision within thirty (30) days of submittal of all information required in Section 2a.
- (3) The Planning Board may schedule a public hearing regarding the proposal. If so, the public hearing must be scheduled within thirty (30) days of submittal of a completed application and a written decision shall be rendered within fifteen (15) days of the public hearing.
- (4) The application may be approved as submitted, approved with conditions (which shall be stated in writing), or denied. In the event of denial, the reasons for denial shall be stated in writing.
- (5) When the effects of proposed new uses or resumption of former uses are uncertain, the Planning Board, after notification to the applicant, shall employ such independent, recognized consultants as necessary, at the expense of the applicant, to ensure compliance with all requirements of this ordinance specifically related to the public health, safety, and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

C. Appeals:

- (1) Appeals involving conditions imposed by the Planning Board, or a decision to deny approval, shall lie from the Planning Board to the Superior Court, according to State law, except that when such appeals involve administrative procedures or interpretation, they may first be heard and decided by the Board of Appeals, as detailed below:
 - (a) When errors of administrative procedure are found, the case shall be referred back to the Planning Board for rectification.
 - (b) When errors of interpretation are found, the Board of Appeals may modify or reverse the order or action but may not alter the conditions attached by the Planning Board in a conditional use permit. The Planning Board in accordance with the Board of Appeals' information, other than changes made by the granting of a variance, shall make all changes in conditions.
- (2) Appeals involving administrative procedure or interpretation shall lie from the decision of the Planning Board to the Board of Appeals and from the Board of Appeals to the Superior Court according to State Law.

D. Violations

- (1) Failure to comply with any conditions of the Site Plan Review subsequent to the receipt of a building permit shall be construed to be a violation of this regulation and shall be grounds for the revocation of any building permit by the Planning Board.

- (2) In instances where no new building or construction is proposed, establishment of a new use or resumption of a use which has been discontinued for at least two (2) years, if accomplished without Planning Board approval, shall constitute a violation of this ordinance. Such a violation shall be punishable by a fine of not less than five dollars (\$5.00) or more than one hundred dollars (\$100.00) for each day that the violation continues to exist after official notification by the Town.
- (3) Whenever sedimentation is caused by stripping vegetation, regarding, or other development, it shall be the responsibility of the owner to remove sedimentation from all adjoining surfaces, drainage systems, and watercourses, and to repair any drainage at his expense as quickly as possible. Failure to do so within two (2) weeks after official notification by the Town shall be punishable by a fine of one hundred dollars (\$100.00) for each day the offense continues.

E. Enforcement

- (1) Nuisances: Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer: It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- (3) Legal Action: When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- (4) Fines: Any person who continues to violate any provision of this Ordinance, after receiving notice of such violation, shall be guilty of a misdemeanor subject to a fine of up to one hundred (\$100.00) dollars for each violation. Each day such a violation is continued is a separate offense.
- (5) Definitions: Terms not defined herein shall have the customary dictionary meaning. As used in this Ordinance, the following definitions shall apply:
 - (a) Family: Any number of persons related by blood, adoption, or marriage; or not to exceed four (4) persons not so related, living together in one

- dwelling as a single housekeeping entity.
- (b) Single-Family and Two-Family Housing Units: A building designed for occupancy by one family or two families shall be classified as a single-family housing unit or a two-family housing unit respectively and shall not require a Site Plan Review Permit.
 - (c) Multi-Family Housing: A building designed for occupancy by more than two families shall be classified as multi-family housing and a Site Plan Review Permit shall be required.
 - (d) Home Occupations: Home occupation means an occupation conducted within a dwelling unit by a resident thereof which is customarily incidental and secondary to the residential use of the unit which such use does not occupy more than fifty (50%) percent of the dwelling unit devoted to living quarters, except that the area devoted to living quarters shall not be reduced below six hundred (600) square feet by this subsection; which requires no display of goods, no stock in trade, no commodity sold on the premises; not more than one (1) non-resident of the dwelling unit employed; and which does not interfere with the peace and quiet of the neighborhood. The office of a doctor or dentist shall be considered a home occupation provided that it conforms to the restrictions set fourth above.
- (6) Before accepting the final plan for a subdivision or a commercial application, the Planning Board may request a performance guarantee for an amount adequate to cover the total cost or part of the total cost of the project:
- (a) Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
 - (b) A performance bond payable to the municipality issued by a surety company, approved by the Municipal Officers; or
 - (c) An irrevocable letter of credit from a financial institution establishing funding from which the Town may draw if construction is inadequate.

TOWN OF SMITHFIELD MODEL ORDINANCE RELATING TO FLOOD HAZARD BUILDING PERMIT

ADOPTED: March 8, 1986

AMENDMENTS: March 14, 1987

1. ESTABLISHMENT

WHEREAS, the Town of Smithfield elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-448 as amended);

WHEREAS, the National Flood Insurance Program established in the aforesaid Act provides that the Flood Insurance Rate maps shall be provided by the Federal Emergency Management Agency identifying those areas of the Town in the floodplain having a special flood hazard;

NOW, THEREFORE, BE IT RESOLVED, that this Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Smithfield.

2. DEFINITIONS

- A. "Area of Special Flood Hazard" - means the land in the floodplain having a one percent or greater chance of flooding in any given year.
- B. "Base Flood" - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
- C. "Development" - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- D. "Structure" means a walled and roofed building, including storage tanks and manufactured homes that are principally above ground.
- E. "Substantial Improvement" - means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications, which are solely necessary to assure safe living conditions, or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.
- F. "Flood Insurance Rate Map" - means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of

Smithfield.

- G. "Manufactured Home" - includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

3. PERMIT REQUIRED

Before construction, relocation, replacement, or substantial improvement or modification of any building, including prefabricated and manufactured homes has commenced in the special flood hazard area designated on the maps prepared in accordance with the National Flood Insurance Act of 1968, as amended, the owner or lessee, or the architect, engineer, contractor or builder employed by such owner or lessee shall obtain from the PLANNING BOARD a permit covering such proposed work.

4. APPLICATION FOR PERMIT

The application for a permit shall be submitted in writing to the PLANNING BOARD and shall include:

- A. The name and address of the applicant,
- B. An address or a map indicating the location of the construction site,
- C. A site plan showing location of existing and proposed structure(s), sewage disposal facilities, water supply, areas to be cut and filled and the lot dimensions,
- D. A statement of intended use of the proposed structure(s),
- E. A statement as to the type of sewage system proposed.
- F. Specification of dimensions of the proposed structure(s) length, width and height,
- G. The elevation (in relation to ground and mean sea level) of the lowest floor, including basement, and if the lowest floor is below grade on one or more sides, the elevation of the floor immediately above, and
- H. A copy of the plans and specifications of the proposed construction. This requirement may be modified by decision of the PLANNING BOARD when, in their opinion, such information is or is not needed to determine the conformance of the proposed construction with this ordinance.

5. PERMIT FEE

A permit fee of \$5.00 shall be paid to the town clerk (for compensation of the Code Enforcement Officer) with a copy of the receipt to accompany the application.

6. REVIEW OF FLOOD HAZARD DEVELOPMENT

The PLANNING BOARD shall:

- A. Review all aforesaid building permit applications to determine whether proposed building sites will be reasonably safe from flooding. Any construction, relocation, replacement or substantial improvement or modification of any building, including prefabricated and manufactured homes upon building sites, located in Zone A of the Flood Insurance Rate Map, must:
- (1) Be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure,
 - (2) Use construction material and utility equipment that are resistant to flood damage.
 - (3) Use construction methods and practices that will minimize flood damage, and
 - (4) In the case of mobile homes, be anchored to resist flotation, collapse or lateral movement by:
 - a. Over-the-top ties anchored to the ground at the four corners of the mobile home, plus two additional ties per side at intermediate points, (except that manufactured homes less than 50 feet long require only one additional tie per side),
 - b. Frame ties at each corner of the home, plus five additional ties along each side of intermediate points (except that manufactured homes less than 50 feet long require only four additional ties per side),
 - c. All components of the anchoring system shall be capable of carrying a force of 4800 pounds, and
 - d. Any additions to the manufactured home are similarly anchored.
- B. Obtain, review and reasonable utilize any base flood elevation data available from a Federal, State or other source, until such other data has been provided by the Federal Insurance Administration, as criteria for requiring that all new construction and substantial improvements meet the following standards:
- (1) That residential structures have the lowest floor (including basement) elevated one foot above the base flood level, and
 - (2) That non-residential structures have the lowest floor (including basement) elevated or flood proof one foot above the base flood level, or, together with attendant utility and sanitary facilities, shall:
 - (a) Be flood proofed so that below the base flood elevation the structure is water tight with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this

paragraph.

- (3) Encroachments including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in an increase in flood levels during the occurrence of the base flood discharge. NOTE: THESE CHANGES ARE FEDERAL MANDATES IN ORDER TO CONTINUE IN THE FLOOD INSURANCE PROGRAM.

- C. Notify, in riverain situations, adjacent communities and the State Planning Office and the Department of Environment Protection prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency, to assure that flood-carrying capacity is maintained within the altered or relocated portion of the watercourse.

7. REVIEW OF SUBDIVISION PROPOSALS

The Planning Board, when receiving subdivisions under 30 MRSA, Section 4401, assures that:

- A. All such proposals are consistent with the need to minimize flood damage,
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated, and constructed to minimize or eliminate flood damages,
- C. Adequate drainage is provided so as to reduce exposure to flood hazards, and
- D. In the case of subdivisions or other developments greater than 50 lots or 5 acres (whichever is the lesser), that all proposals include base flood elevation data.

8. MANUFACTURED HOME SUBDIVISION OR MANUFACTURED HOME PARKS

In the case of manufactured subdivisions or manufactured home parks, located in Zone A of the Flood Insurance Rate Map, an evacuation plan shall be filed with the Town Civil Emergency Preparedness office, indicating alternate vehicular access and escape routes.

9. PLUMBING

The Plumbing Inspector shall require new or replacement water supply systems and sanitary sewage systems to be designed to minimized or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

10. REGULATIONS

The PLANNING BOARD may adopt any reasonable regulations, after public hearing, that are consistent with and in furtherance of the objectives of Sections 4, 5, 6, and 7 above, that they deem necessary for the proper enforcement of said sections and which are consistent with State law.

11. APPEALS AND VARIANCES

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board of Code Enforcement Officer in the administration of the Ordinance. Such hearings shall be held in accordance with State laws.

The Board of Appeals may, upon written application of the affected landowner, grant a variance the strict application of this Ordinance under the following conditions:

- A. The strict application of the terms of this Ordinance would result in undue hardship to the applicant or would not be in the best interest of the community, and
- B. The hardship is not the result of action taken by the applicant or a prior owner in violation of this Ordinance.

12. ENFORCEMENT

It shall be the duty of the CODE ENFORCEMENT OFFICER to enforce the provisions of this Ordinance. If the CODE ENFORCEMENT OFFICER finds that any provisions of this Ordinance is being violated, he shall notify in writing the person responsible for such violation indicating the nature of the violations and ordering the action necessary to correct it.

When the above action does not result in the correction or abatement of the violation, the Municipal Officers, upon notice from the CODE ENFORCEMENT OFFICER are hereby authorized and directed to institute any and all actions, whether legal or equitable, necessary to the enforcement of this Ordinance. Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

13. VALIDITY AND SEVERABILITY

If any section of this Ordinance were declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

14. CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rules, regulations, by-laws, permits, or provisions of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures the provisions of this Ordinance shall control.

15. EFFECTIVE DATE (3-8-86)

The effective date of this Ordinance is the date of adoption by town vote. A certified copy of this Ordinance shall be filed with the County Registry of Deeds, according to the requirements of State law.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

ADOPTED: March 9, 1996

AMENDED: March 8, 1997, March 13, 1999, March 11, 2000, March 10, 2001, August 19, 2003, March 12, 2005, August 2006, March 8, 2008

SECTION 1. PURPOSES

The purpose of this ordinance is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat, to protect buildings and land from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to participate and respond to the impacts of development in shore land areas.

SECTION 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38, sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.)

SECTION 3. APPLICABILITY

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river or the upland edge of a freshwater wetland and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

SECTION 4. EFFECTIVE DATE

A. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by citizens at the town meeting held on March 8, 2008, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of this Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner of the DEP for approval. If the Commissioner of the DEP fails to act on this Ordinance, or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be deemed automatically approved.

B. Sections 15(O) and 15(O-1). Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A (5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

NOTE: The statutory date established under 38 M.R.S.A. section 438-A (5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 has either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A (5) further provides that "the Commissioner of Conservation shall notify

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards.”

SECTION 5. AVAILABILITY

A certified copy of the Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of the availability of this Ordinance shall be posted.

SECTION 6. SEVERABILITY

Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

SECTION 8. AMENDMENTS

This Ordinance may be amended by majority vote of the citizens attending a town meeting. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Citizens and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. If the Commissioner of the DEP fails to act on any amendment within 45 days of the board's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the town within the forty-five (45) day period shall be governed by the terms to the amendment, if the Commissioner approves such amendment.

SECTION 9. DISTRICTS AND ZONING MAP

A. Official Shore land Zoning Map. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shore land Zoning Map and defined in Section 18 which is made a part of this Ordinance:

1. Resource Protection (RP)
2. Limited Residential-Recreational (LRR)
3. Limited Residential-Recreational Sub zone I (general, light commercial use) (LRR1)
- [4.](#) General Development 1
- [5.](#) General Development 2
6. Stream Protection (SP)

B. Scale of Map

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

The Official Shore land Zoning Map shall be drawn at a scale of not less than: 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shore land Zoning Map.

The Official Shore land Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Office.

D. Changes in the Official Shore land Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shore land Zoning Map, such changes shall be made on the Official Shore land Zoning Map within thirty days (30) after the Commissioner of the Department of Environmental Protection has approved the amendment.

SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES (REF: Sec 18)

Unless otherwise set forth on the Official Shore land Zoning Map, district boundary lines are property lines, the center lines of streets, roads, and right of ways, and the boundaries of the shore land area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

NOTE: The Maine Supreme Judicial Court has held that the Official Shore Land Zoning Map is the primary tool to which to refer in determining district boundaries under ordinances that are not more explicit in their district descriptions than the language of the Guidelines, and that where there is inconsistency between the Map and these general text descriptions of the shore land districts as provided in the minimum guidelines, Map prevails.

SECTION 11. LAND USE REQUIREMENTS.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all the regulations herein specified for the district in which it is located, unless a variance is granted.

SECTION 12. NON-CONFORMANCE

A. Purpose: It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the adoption of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming

B. General:

- 1. Transfer of Ownership:** Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- 2. Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

C. Non-Conforming Structures:

1. **Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - (a) After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
 - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
2. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State Law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

 - (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement: Any non-conforming structures which are located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value* of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C) (2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value*, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C) paragraph (2) above, the physical condition and type of foundation present, if any.

* Owner is responsible for obtaining an appraisal if requested

- 4. Change of Use of a Non-Conforming Structure:** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.
-In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and functionally water dependent uses.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

D. Non-Conforming Uses:

1. **Expansions:** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within the existing residential structures or within expansion of such structures as allowed in Section 12(C)(1)(a) above.
2. **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of "no greater adverse impact" shall be made according to criteria listed in Section 12(C) (4) above.

E. Non-Conforming Lots:

1. **Non-Conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need of a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained from the Appeals Board.
2. **Contiguous Built Lots:** If two (2) or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State's Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.
If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.
3. **Contiguous Lots-Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structures, the lots shall be combined to the extent necessary to meet the dimensional requirements.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on March 14, 1992 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E) (3) (a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. Resource Protection District (RP). The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shore land zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

(2) Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

(4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

B. Limited Residential –Recreational District (LRR). The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Residential Recreational Sub Zone or the General Development Districts.

C. Limited Residential-Recreation Sub zone I Commercial District (LRR1). The Limited Residential Recreational Sub zone 1 includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development I District. The General Development I District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

E. General Development II District. The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

F. Stream Protection District (SP). The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shore land area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shore land district associated with that water body or wetland.

SECTION 14. TABLE OF LAND USES

Smithfield Shore Land Zoning Ordinance

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

All land use activities, as indicated in Table 1, Land Uses in the Shore land Zone, shall conform to all the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shore land Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards).

No - Prohibited

PB - Allowed with permit from the Planning Board

CEO - Allowed with permit from the Code Enforcement Officer

LPI - Allowed with permit from the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LRR - Limited Residential-Recreational

LRR1 - Limited Residential-Recreation Sub zone I (Commercial)

GD I - General Development I District

GD II - General Development II District

SP - Stream Protection

REF - Reference

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USE	DISTRICTS						
	RP	LRR	LRR1	SP	GD1	GD2	REF
1. Non-intensive recreational uses not requiring structures such as: hunting, fishing & hiking	YES	YES	YES	YES	N/A	N/A	
2. Motorized vehicular traffic on existing roads and trails	YES	YES	YES	YES	N/A	N/A	

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

3. Forest management activities except for roads and trails	YES	YES	YES	YES	N/A	N/A	15: O
4. Timber harvesting	CEO(1)	YES CEO	YES CEO	YES CEO	N/A	N/A	15: O
5. Clearing or removal of vegetation from activities other than Timber Harvesting	CEO(1)	YES	YES	YES	N/A	N/A	15:P
6. Fire prevention activities	YES	YES	YES	YES	N/A	N/A	
7. Wildlife management practices	YES	YES	YES	YES	N/A	N/A	
8. Soil and water conservation practices	YES	YES	YES	YES	N/A	N/A	
9. Mineral exploration	YES(2)	YES(2)	YES(2)	NO	N/A	N/A	15:M
10. Mineral extraction including sand and gravel extraction	PB(3)	PB	PB	NO	N/A	N/A	15:M
11. Surveying & resource analysis	YES	YES	YES	YES	N/A	N/A	
12. Emergency operations	YES	YES	YES	YES	N/A	N/A	
13. Agriculture	PB	Yes/8	Yes/8	Yes/8	N/A	N/A	15:N
14. Aquaculture	PB	PB	YES	YES	N/A	N/A	15:S

LAND USE	DISTRICTS						
	RP	LRR	LRR1	SP	GD1	GD2	REF
15. Principal Structures and Uses:							15:B
A. One-two family residential	NO	PB	PB	PB(4)	N/A	N/A	
B. Multi-unit residential	NO	NO	NO	NO	N/A	N/A	
C. Commercial	NO	NO	PB	NO	N/A	N/A	15:F
D. New Industrial Uses permitted	NO	NO	NO	NO	N/A	N/A	15:F
E. Governmental & Institutional	NO	NO	PB	NO	N/A	N/A	
F. Small non-residential facilities for in the scientific educational,	PB	CEO	CEO	NO	N/A	N/A	

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

or nature purposes							
16. Structures accessory to allowed uses	PB	CEO	CEO	PB(4)	N/A	N/A	15:B
17. Piers, docks, wharves, bridges, and other structures and uses extending over the normal high water line or beyond or within a wetland							15:C
A. Temporary	CEO	CEO	CEO	CEO	N/A	N/A	
B. Permanent	DEP	DEP	DEP	DEP	N/A	N/A	
18. Conversions of Seasonal residences to year-round use in conforming structures	NO	LPI	LPI	LPI	N/A	N/A	15:K
19. Home Occupations	NO	PB	YES	PB	N/A	N/A	15
20. Private sewage disposal systems for allowed uses	NO	LPI	LPI	LPI	N/A	N/A	15:K
21. Essential services	PB(5)	YES	YES	YES	N/A	N/A	15:L
22. Service drops, as defined, to allowed uses	YES	YES	YES	YES	N/A	N/A	
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	N/A	N/A	

LAND USE		DISTRICTS						
		RP	LRR	LRR1	SP	GD1	GD2	REF
24. Individual Private Campsites		CEO	CEO	CEO	CEO	N/A	N/A	15:E
25. Campgrounds		NO(6)	PB	PB	NO	N/A	N/A	15: D
26. Road and driveway construction		NO(7)	PB	PB	PB	N/A	N/A	N/A
27. Parking facilities		NO(7)	PB	PB	NO	N/A	N/A	15:G
28. Marinas		NO	PB	PB	PB	N/A	N/A	
29. Filling and earth moving under 15 yards		CEO	YES	YES	CEO	N/A	N/A	N/A
30. Filling and earth moving over 15 yards		PB	CEO	CEO	PB	N/A	N/A	N/A

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

31. Signs	YES	YES	YES	YES	N/A	N/A	15:i
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	N/A	N/A	
33. Uses similar to uses requiring a CEO Permit	CEO	CEO	CEO	CEO	N/A	N/A	
34. Uses similar to uses requiring a PB Permit	PB	PB	PB	PB	N/A	N/A	

1. In RP not permitted without 75' of normal high water mark
(If state-wide standards go into effect-this will be allowed)
2. Requires permit from the CEO if more than 100 square feet to surface area in total is distributed.
3. In RP not permitted in areas so designated because of wildlife value
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. See further restrictions in Section 15:L
6. Except when area is zoned RP due to flood plain. Criteria in which case a permit is required from the PB
7. Except to provide access to permitted uses within the district or where area, no reasonable alternative route or location is located outside the RP in which case a permit is required from the PB.
8. Requires permit from CEO

SECTION 15. LAND USE STANDARDS

All Land Use activities within the shoreland zone shall conform to the following provisions:

A. Minimum Lot Standards Minimum Lot Area (sq. ft.) Min. Shore Frontage (ft.)

1. (See Minimum Lot Size Ordinance, page 75-Town Ordinances)

(a) Residential per dwelling unit	80,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	80,000	300
(c) Public and Private Recreational Facilities	80,000	200

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof September 22, 1971.
4. If more than one residential dwelling unit, governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
5. Cluster Development....the minimum lot size may be reduced no less than 40,000 square feet as long as 80,000 square feet for each dwelling shall be dedicated as common open space to be preserved and maintained for aesthetic value, recreational use, or conservation purposes. The open space must be contiguous to land on which the dwellings are built. Any open space land located on wetlands, wetland soils, or wetland vegetation shall not be counted as part of the open space. No dwellings shall be built within 250 feet of the high water mark. (See Smithfield Subdivision Ordinance Section 7 Design and Construction Standards, paragraph I)
6. When subdivision developments in or outside the shoreland zone convey rights to use shoreland areas, it is required that 50 feet of shore frontage be provided for each lot or dwelling which has shore rights to a great pond, river or stream.
7. The establishment of a shoreland lot not contained in a subdivision but intended for the common use of lots or dwelling within a subdivision is prohibited.
8. The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
9. Change of Ownership for Septic Waste Disposal: See section 15, K (2).
At the time of change of ownership, all septic waste disposal systems shall be inspected by the Licensed Plumbing Inspector (LPI) and shall conform that the current system is one that is to code referencing the State of Maine Department of Health & Human Services Plumbing Codes.

B. Principal and Accessory Structures: (See Section 14, Table 1, #15 & #16)

1. All new principal and accessory structures shall be set back at least one hundred (100') feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, including Great Meadow Stream, and seventy-five (75') feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District, the setback requirement shall be 250 feet; horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- In addition:** The water body, tributary stream, or wetland setback provision shall neither apply to structures, which require direct access to the water body or wetland as an operational necessity, such as piers and docks and retaining walls, nor to other functionally water-dependent uses.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Residential-Recreational sub zone, and Stream Protection Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area. (Ref. for a proposed Tower Ordinance)
 3. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
 4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to rivers that do not flow to great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
 5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (I) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P) (2) (a), may traverse the buffer;
6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and other Structures and Uses Extending Over or Below the Normal High Water Line of a Body of Water or a Wetland: (See Section 14, Table 1, #17)

1. Access from shore shall be developed on soil appropriate for such use and constructed so as to control erosion.
2. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses, of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
3. The location shall not interfere with existing developed or natural beach area.
4. The facility shall be located as to minimize adverse effects on fisheries.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Code Enforcement Officer that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwellings units in any district.
8. Structures built on, over or abutting a pier, wharf, dock or other structures extending beyond the normal high water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, dock, or other structure.
9. Any person installing a new pier, dock, wharf, bridge, or other structure or use extending over or beyond the normal high water line or within a wetland, shall first obtain a permit from the Code

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Enforcement Officer. All new docks shall be temporary, i.e. no new permanent docks shall be permitted. The Code Enforcement Officer shall determine that the proposed structure meets the requirements and definitions set forth in this Ordinance. Any future change in the approved structure will also require a permit from the Code Enforcement Officer. Temporary docks may be reinstalled each year, assuming that there has been no change from the approved structure, without additional permits required.

D. Campgrounds: (See Section 14, Table 1, #25, Page 9) Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites: (See Section 14 Table 1, #24) Individual-private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zones adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual houses or farms.
- e. Commercial painting, wood preserving, and furniture stripping.
- f. Dry cleaning establishment
- g. Electronic circuit assembly
- h. Laundromats, unless connected to sanitary sewer
- i. Metal plating, finishing, or polishing
- j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sale associated with marinas
- k. Photographic processing
- l. Printing

G. Parking Areas: (section 14, Table 1, #27, Page 9)

1. Parking areas shall meet the shoreline and tributary stream setback for structures for the district in which such areas are located, except for those serving public boat launching facilities, where they shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Approximately ten (10') feet wide and twenty (20') feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40') feet long.
 - b. Internal travel aisles shall be twenty (20') feet wide.

H. Roads and Driveways: (Section 14, Table 1, #26, Page 9) the following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one hundred (100') feet horizontal distance from the normal high water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75') feet horizontal distance from the normal high water line of other water

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

bodies, tributary streams or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty feet (50'), horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20%) percent the road and/or driveway setback shall be increased by ten (10') feet, horizontal distance, for each five (5%) percent increase in slope above twenty (20%) percent.

Section 15 H. 1. does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H) (1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15Q.
5. Road and driveway grades shall be no greater than ten (10%) percent except for segments of less than two hundred (200') feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50') feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream or upland edge of a wetland. Surface drainage, which is directed to an unscarified buffer strip, shall be diffused or spread out to promote infiltration of the runoff and to minimize channeled flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

or driveway at intervals no greater than indicated in the following table:

<u>Road Grade (percent)</u>	<u>Spacing (Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10%) percent or less.
- c. On sections having slopes greater than ten (10%) percent, ditch relief culverts shall be placed at approximately a thirty degrees (30) angle down slope from a line perpendicular to the centerline of the road or driveway.
- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs: Section A, Table 1, #31, Page 10) the following provisions shall govern the use of all signs in the shoreland zone.

- 1. Signs relating to goods and services sold on the premises shall be allowed, provided such signs shall not exceed six (6) square feet in area, and shall not exceed two (2) signs per premises. In the LRR1 (Limited Residential-Recreation Subzone I (Commercial) District), however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods and services not sold or rendered on the premises shall be prohibited.
- 2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premise, and shall not exceed twelve (12) square feet in the aggregate.
- 3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- 4. Signs relating to trespassing and hunting shall be allowed without restriction as to number, provided that no such sign shall exceed two (2) square feet.
- 5. Signs relating to public safety shall be allowed without restriction.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

6. No sign shall extend higher than twenty (20') feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal: (Section 14, Table 1, #20)

1. All subsurface sewage disposal facilities shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.
2. Change of Ownership
At the time of change of ownership, all septic waste disposal systems shall be inspected by the Licensed Plumbing Inspector (LPI) and shall conform that the current system is one that is to code referencing the State of Maine Department of Health & Human Services Plumbing Codes. This procedure is reviewed for any needed follow-up before new deeds are filed at the Smithfield town Office.

L. Essential Services: (Section 14, Table 1, #21, Page 8)

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection District or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction: (Section 14, Table 1, #9 & #10) Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration, which exceeds the above limitations. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

effective measures, to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and, approved, by the Planning Board before a permit is granted. Such plan shall describe in detail, procedures to be undertaken to fulfill the requirements of Section 15 (M) 3 below.
2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100') feet, horizontal distance, of the normal high water line of a great pond classified GPA or a river flowing into a great pond classified GPA, and within seventy-five (75') feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50), horizontal distance, of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar materials shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purpose of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture: (Section 14, Table 1, #13)

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100') feet, horizontal distance of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75') feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said Plan shall be considered to be a violation of this ordinance.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting: (Section 14, Table 1, #4)

1. Within the strip of land extending seventy-five feet (75') inland from the normal high water line in a shoreland area zoned for Resource Protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform to the following provisions:
 - a. Selective cutting of not more than forty (40%) percent of the total volume of trees four (4") inches or more in diameter measured at 4½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

Within one hundred (100') feet, horizontal distance, of the normal high water line of a great pond and within seventy-five (75') feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

At distances greater than one hundred (100') feet, horizontal distance, of a great pond or a river flowing to a great pond and greater than seventy-five (75') feet, horizontal distance, of the normal high water mark of other water bodies or the upland edge of a wetland, harvesting operations shall not create a single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100') feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

Timber harvesting operations exceeding the 40% limitation in paragraph (a.) above may

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within 14 days of the planning board's decision.

- b. No accumulation of slash shall be left within fifty feet (50') of the normal high water line of a water body. In all other areas slash, shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4') feet above the ground. Any debris that falls below the normal high water line of a water body shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (1) Surface waters are frozen: and
 - (2) The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unsatisfied strip of vegetation of at least seventy-five (75') feet in width for slopes up to ten (10%) percent shall be retained between the exposed mineral soil and the normal high water mark of a water body or upland edge of a wetland. For each 10% increase in slope, the unscarified strip shall be increased by twenty 20 feet horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided that no portion of such mineral soil or a back face shall be closer than twenty-five feet (25') from the normal high water line of a water body or upland edge of a wetland.

O-1. Timber Harvesting: (Section 14, Table 1, #4) **Statewide Standards** [Effective on effective date established in Section 4(B)]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section O-1(1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to rivers and wetlands:
 - (I) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) Option 1 (40% volume removal), as follows:
 - (I) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is wind firm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers and streams, and within 75 feet, horizontal distance, of the upland edge of a wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
 - (b) Option 2 (60 square foot basal area retention), as follows:
 - (I) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

(ii) A well-distributed stand of trees which is wind firm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapters 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

(I) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(I) 100 feet, horizontal distance, from the normal high-water line of a river or wetland;

(ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

(iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams.

(b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(d) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (e) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1) (5) (e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkin's, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
 - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1) (6) (g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
 - (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1) (6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Widths of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting (Section 14, Table 1, #5)

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75') feet, horizontal distance, and inland from the normal high water mark, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section P. 1. above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100') feet, horizontal distance, inland from the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75') feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than two hundred-fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6') feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 - b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each twenty-five (25') foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.
Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4½ feet above ground level may be removed in any ten 10-year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3') feet in height and other ground cover, including leaf litter and forest duff layer, shall not be cut, covered, or removed, except to provide for a foot path or other permitted uses as described in Section 15 (P) paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom 1/3 of tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15 (P) (2) does not apply to those portions of public recreational facilities adjacent to public swimming areas, as long as cleared areas are limited to the minimum area necessary.

- 3. At distances greater than one hundred (100') feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75') feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40%) percent of the volume of trees four (4") inches or more in diameter, measured four and one-half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40%) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including, but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, twenty-five (25%) percent of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Limited Recreational Subzone I Zone.

- 4. Cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- 5. Fields and other cleared openings, which has reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of Section 15P.

Q. Erosion and Sedimentation Control:

- 1. All activities which involve filling, grading, excavation or other similar activities, which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- c. Permanent stabilization structures such as retaining walls or rip-rap.
 2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fill may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by the use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twines or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.
- R. Soils:** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by a State certified professional. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, and presence of ledge, drainage conditions, and other pertinent data, which the evaluator deems appropriate. The soil report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality:** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- T. Archaeological Sites:** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

SECTION 16: ADMINISTRATION

A. Administering Bodies and Agents:

1. Code Enforcement Officer: A Code Enforcement Officer shall appoint or reappointed annually by July 1st.
2. Board of Appeals: A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
3. Planning Board: A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required:

After the effective date of this Ordinance, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

1. A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application:

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate,

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

shall note upon each application the date and time of receipt.

4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
5. All applications for Shore Land Zoning shall be accompanied by an application fee, payable at the time of filing. The fee shall be sufficient to compensate the municipality for reasonable costs of processing the application. Fees shall be set, and may be amended, by the Board of Selectmen, and shall consist of a base fee, plus a variable fee based on the size or complexity of the development. The board shall hold a public hearing prior to setting or amending fee schedule.

D. Procedure for Administering Permits:

1. Within thirty-five (35) days of the date of receiving a written application, the Planning Board or the Code Enforcement Officer (as indicated in Section 14) shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete that specific additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.
2. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
3. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
 - a) Will maintain safe and healthful conditions;
 - b) Will not result in water pollution, erosion, or sedimentation to surface waters;
 - c) Will adequately provide for the disposal of all wastewater;
 - d) Will not have an adverse impact on spawning grounds fish, aquatic life, bird or other wildlife habitat;
 - e) Will conserve shore cover and points of access to inland waters;
 - f) Will protect archaeological and historic resources as designated in comprehensive plans;
 - g) Will avoid problems associated with flood plain development and use; and
 - h) Is in conformance with the provisions of Section 15, Land Use Standards.
4. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

5. The permit shall be posted in clear view of the area covered by the permit during any period of construction or other work covered by the permit. The Town will provide weather resistant permits.

E. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

F. Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits under this or any previous Ordinance, has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation is complete.

G. Appeals

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. **Variance Appeals:** Variances may be granted only under the following conditions:
 - a. Variances may be granted only from dimensional requirements including, but not limited to: lot width, structure height, and percent of lot coverage and setback requirements.
 - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - c. The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought;

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

and

- (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood
 - c. That the granting of a variance will not alter the essential character of the locality;
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any condition opposed.
- f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals:

- a. When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.
- b. When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Appeal Procedure

a. Making an Appeal:

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16 (H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal, which includes:
 - (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals:

- (1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- (2) The person filing the appeal shall have the burden of proof.
- (3) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
5. Appeal to Superior Court: Except as provided by 30-A M.R.S.A. section 2691 (3) (F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration: In accordance with 30-A M.R.S.A. section 2691 (3) (F), the Board of Appeals may reconsider any decision reached within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

H. Enforcement

1. Nuisances: Any violation of this Ordinance shall be deemed a nuisance.
2. Code Enforcement Officer (CEO):
 - a. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO shall find that any provisions of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal building or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocations of permits, appeals, court actions, violations

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result or erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, section 4452.

NOTE: Current penalties include fines of not less than \$100 "Nor" more than \$2500 per violation for each day that the violation continues.

SECTION 17. DEFINITIONS:

Accessory Structure or Use - a use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term "incidental" in reference to the principle use or structure shall mean both:

- a. Subordinate and minor in significance to the principle use or structure, and
- b. Attendant to the principle use or structure.

Such accessory uses, when aggregated shall not subordinate the alleged principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved Party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permits or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does

Smithfield Shore Land Zoning Ordinance

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau - State of Maine Department of Conservation's Bureau of Forestry.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial Use - the use of the lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental or residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect of mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined in writing by a practicing licensed physician, or in the case of mental handicap, by a practicing licensed psychiatrist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500') feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency Operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential Services -gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a Structure - an increase in either the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, patios, porches and greenhouses.

Expansion of Use - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Family - one or more persons occupying a premise and living as a single housekeeping unit.

Floor Area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and construction, creation or maintenance of roads.

Forested Wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, including but not limited to including basements, slabs, sills, posts or frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetlands - freshwater swamps, marshes, bogs other than forested wetlands, and similar areas which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally Water-Dependent Uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonable be located or operated at an inland site, and uses which primarily provide general public access to inland waters.

Great Pond - any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA - any great pond classified GPA, pursuant to 38, M.R.S.A. Article 4-A, Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a Structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances, that have no floor area.

Home Occupation - an occupation or profession, which is customarily conducted on or in a residential structure or property and which is

1. Clearly incidental to and compatible with the residential use of the property and surrounding

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- residential uses; and
2. employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Lot Area - the area of land enclosed within the boundary lines of a lot, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Line - is defined as the line along the predominant boundary direction or a line that follows an existing boundary line. Examples are shorelines, roads and other natural barriers such as stonewalls or tree lines that may not be straight as defined by Licensed Surveyors.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Market Value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral Exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record in (lawful existence) which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, width or depth requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use - use of buildings, structures, premises, land or parts thereof that is not allowed to be located in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line- that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Permanent Structure(s) - Structures attached to the ground and not designed to be moved.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-Smithfield Shore Land Zoning Ordinance

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal Structure - The structure in which the primary use of the lot is conducted. A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use - The principle use to which the premises are devoted and the main purpose for which the premises exist. A use other than one which is wholly incidental or accessory to another use on the same premises.

Public Facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent Flood Plain Soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewall	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational Facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat-launching facilities.

Recreational Vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement System - a system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. Any existing overboard wastewater discharge.

Residential Dwelling Unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Residual basal area – the average of the basal area of trees remaining on a harvested site.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Residual Stand – a stand of trees remaining in the forest following timber harvesting and related activities.

River - a free-flowing body of water including its associated flood-plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Service Drop - any utility line extension that does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service
 - a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. The total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
 - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore Frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland Zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Smithfield Shore Land Zoning Ordinance

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term shall apply to structures temporarily or permanently located, such as patios, decks and satellite dishes.

Substantial Start - completion of thirty (30%) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System - any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber Harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber Harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary Stream - a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

Volume of a Structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water Body - any great pond, river, or stream.

Water Crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Watershed - The land area that contributes water to a particular lake. Watershed boundaries can be identified by connecting points of highest elevation around a lake and its tributaries.

Wetland - a freshwater wetland.

Wind firm - the ability of a forest stand to withstand strong winds and resist wind throw, wind rocking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

SECTION 18.

WRITTEN DESCRIPTION OF DISTRICTS

Ref # Tax Map #	Location of boundary lines between Shoreland Zoning districts to be referred to, along with the official Shoreland Zoning map, to determine precise locations where one Shoreland Zoning District starts and where it changes to another. Property lines are used wherever feasible.
1 M11, 12	NORTH POND. Starting at the North end of North Pond at the Smithfield/Mercer line where Bog Stream enters the Pond, thence easterly to Lot 1, Map 11/Lot 33, Map 12 property lines is the Resource Protection Zone. This Zone also extends northerly along the eastern shore of the Bog Stream wetland.
2 M12-16	Beginning at the above property line southerly on the east shore of North Pond to the property line of Lots 29/29A, Map 16 i.e. maps, 12-16 inclusive, is all zoned Limited Residential-Recreational.
3 M16	Beginning at the lot line 29/29A, Map 16 easterly towards the Village area to the line between Lots 15 and 16, Map 16 is in the Limited Residential-Recreational Subzone 1 District, (which permits light commercial activity).
4 M16, 18, 17	From the property line between Lots 15 and 16, Map 16 southerly to a line 350 feet westerly from the property line between Lots 15 and 17 on Map 20 and parallel to it is in the Limited Residential-Recreational Zone.
5 M18, 3	Beginning at a line 350 feet westerly from the property line between Lots 15 and 17 on Map 20 and parallel to it, along North Pond to Great Meadow Stream and Southerly along the east shore of Great Meadow Stream to the property line of Lots 1 and 2 on Map 3 are Resource Protection. Lot 1, Map 3 is Limited Residential-Recreational.
5 M1	From Pine Tree Road on Map 1 southerly along the east shore of Great Meadow Stream to the Smithfield/Belgrade line is zoned Resource Protection.
7 M1	EAST POND. Beginning at the Smithfield/Oakland town line on the west shore of East Pond. Map 2 Lot 30, the zone is defined as follows: From the Smithfield/Oakland Town Line along the line of the existing cottages to the northeast corner of the fence line at the pool will be LRR1. From that point and continuing along the East Pond shore line to a point that is the projection of the Matoaka gate/fence line will be Resource Protection for a distance of 100 feet horizontal distance or to the existing fence line at the pool, which ever comes first. The remaining for a total of 250 feet horizontal distance will be LRR1. Thence

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

- to the property line between Lots 29 and 29A will be Resource Protection.
- 8
M1 Starting at the property line between Lots 29 and 29A, Map 1 extending northerly on the west shore of East Pond Northerly to the common lot line between Lots 27F/27, Map 1, is Limited Residential Recreational.
- 9
M3 From the common property lot line between lots 27F and 27, Map 1 extending around the wetland cove to a point 250 feet south of the lots 35 and 37 property line, Map 3 is Resource Protection.
- 10
M3, 1,
21 Continuing northerly on the west shore of East Pond to the property line between Lot 20, Map 3, and Lot 1 Map 5 is in the Limited Residential/Recreational Zone, which include all lots on Map 21.
- 11
M 5 From the above property line extending northerly on the west upland border of the Serpentine wetlands to a point of land located 250 feet west of the easterly point of Lot 3C, Map 5 as shown on the Shoreland Zoning Map is in the Resource Protection Zone.
- 12
M 5 From this point westerly on the south shore of the Serpentine to Route 8 is zoned Limited Residential/Recreational.
- 13
M 5 From Route 8 easterly on the north shore of the Serpentine to the property line between Lots 7A and 7B, Map 5 is in the Limited Residential/Recreational Zone.
- 14
M 4, 5 From lot line between Lots 7A and 7B, Map 5, along the upland, borders of the Serpentine wetlands, and then extending southerly on the west shore of the Serpentine wetlands to East Pond at a point 250 feet east of where the Serpentine wetlands meet East Pond which is Lot 5N2, Map 4. All this is in Resource Protection.
- 15
M 4 From the above point to Lot line 5N-1/5M is Limited Residential/Recreational.
- 16 From this line to 5M/5L is Resource Protection, from 5M/5L to 5L/5K is Limited Residential/Recreational, and from 5L/5K to 5K/5J is Resource Protection.
- 17 From this line to the line between 5A and 4 is Limited Residential/Recreational.
- 18 Lot 4, Map 4 is Limited Residential/Recreational.
- 19 From the boundary of Lot 3 & 4, Map 4 to the lot line separating Lots 1B and 1C on Map 2 is zoned Limited Residential/Recreational. Including all of Map 22.
- 20
M 2 Lot 1C is in the Limited Residential/Recreational, Subzone 1.
- 21
M 2 Going southerly from the above lot line to the Smithfield/Oakland border is in the Resource Protection Zone.
- 22
M 8 **LITTLE POND Starting** at the West point of Little Pond at property lines of 4B and 49 proceeding East through property lines of 49 and 4B proceeding South/West back to the beginning point.

TOWN OF SMITHFIELD SHORELAND ZONING ORDINANCE

There are certain other wetlands that have upland borders in the Resource Protection Zone and are shown on the official Shoreland Zoning Map. Also, see the map for certain islands on both North Pond and East Pond that are included in the Shoreland Zoning regulations.

Portions of Leech Brook and Sucker Brook and the unnamed tributary to Martin Stream crossing Quaker lane as shown on the Shoreland Zoning map are all in the Stream Protection Zone, which regulate certain activities within 75 feet from the streams. The area within 250 feet of the upland edge of the wetland shown on the attached map shall be designated as a Resource Protection District according to the provisions of the Smithfield Shoreland Zoning Ordinance.

**TOWN OF SMITHFIELD
SUBDIVISION REGULATIONS**

ADOPTED: June 2, 1986

**AMENDMENTS: March 14, 1987; March 10, 1990; March 9, 1991;
March 14, 1992; March 13, 1999, March 8, 2008**

A REGULATION DEFINING SUBDIVISION; REQUIRING THE APPROVAL OF ANY SUBDIVISION BY THE PLANNING BOARD BEFORE WORK MAY BE COMMENCED; AND ESTABLISHING PROCEDURES THEREFORE: STATING THE CONTENTS REQUIRED IN THE PRELIMINARY AND FINAL SUBDIVISION PLANS AND ESTABLISHING MINIMUM STANDARDS FOR SUBDIVISION DESIGN AND CONSTRUCTION. THESE STANDARDS ARE CONCERNED WITH THE DESIGN OF NEW DEVELOPMENTS AS WELL AS STANDARDS FOR THOSE DEVELOPMENTS.

SECTION 1. GENERAL

1. Authority:

These regulations have been prepared in accordance with the provisions of Title 30-A, M.R.S.A., Chapter 187, § 4401.

2. Validity and Severability:

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

3. Conflict with other Ordinances:

This Ordinance shall not repeal, annul or in anyway impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures the provisions of this Ordinance shall control.

SECTION 2. SUBDIVISION DEFINED

The definition of Subdivision shall be the same as is found in Title 30-A, M.R.S.A. § 4401.

SECTION 3. PURPOSE

The purpose of these regulations is to protect and preserve the public's health, safety, and general welfare; and to assist the Planning Board in equitable implementation of these regulations.

SECTION 4. GENERAL REQUIREMENTS

Before granting approval of a subdivision, the Planning Board shall be satisfied that the following criteria have been met. The proposed subdivision:

1. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:
 - a. The elevation of land above sea level and its relations to flood plains.
 - b. The nature of soils and subsoil's and their ability to adequately support waste disposal.
 - c. The slope of the land and its effect on effluents.
 - d. The availability of streams for disposal of effluents.
 - e. The applicable State and Local Health and Water regulations.
2. Has sufficient water available for the reasonable foreseeable needs of the subdivision.
3. Will not cause an unreasonable burden on existing water supply if one is to be utilized.
4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
6. Will provide for adequate sewage disposal.
7. Will not cause an unreasonable burden on the ability of the local municipality to dispose of solid waste and sewage if municipal services are to be utilized.
8. Will not have an undue adverse effect on the scenic or natural beauty or the area, aesthetics, historic sites, or rare and irreplaceable natural areas.
9. Is consistent with the need to minimize flood damages.
10. Is in conformance with duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
11. The subdivider has adequate financial and technical capacity to meet the above standards.
12. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river, or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

SECTION 5. ADMINISTRATION

The following administrative procedures are hereby established:

A. Subdivision Review and Approval Required:

No person, firm, corporation or other legal entity may offer to sell or lease any land in a proposed subdivision as defined herein which has not been approved by the Planning Board in accordance with all of the regulations contained herein, nor shall such subdivisions be recorded in the county registry of deeds until such approval by the Planning Board is received.

B. Fees:

The non-refundable permit application fee shall be \$100 plus \$25.00 for each lot. The fee shall be paid upon filing the application with the Planning Board. The fee shall be made payable to the Town of Smithfield to cover the administrative costs. In addition, the Planning Board may process reasonable fees for additional costs relating to a specific application.

C. Subdivision Development:

No utility installations; no ditching, grading, or construction of roads; no grading of land or lots; and no construction of buildings shall be done on any part of the subdivision until a final Plan of such subdivision has been duly prepared, submitted, reviewed, approved, and endorsed as provided in this Ordinance, nor until an attested copy of the Final Plan so approved and so endorsed has been duly recorded by the subdivider in the County Registry of Deeds.

D. Public Hearing:

In the event the Planning Board determines to hold a public hearing on an application for subdivision approval, it shall hold such hearing within 30 days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to the person making the application and to be published in a newspaper of general circulation in the municipality in which the subdivision is proposed to be located, at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

E. Planning Board Action:

The Planning Board shall within 30 days of a public hearing or within 60 days of receiving a completed application (or final plan), if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval upon such terms and conditions as it may deem advisable to satisfy any other regulations adopted by the Planning Board and to protect and preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the persons proposing the subdivision in issuing its decision; the Planning Board shall make findings of

fact establishing that the proposed subdivision does or does not conform to these regulations.

SECTION 6. APPLICATION PROCEDURE

Application for approval of a subdivision may include the submittal of a sketch plan and shall include the submittal of a preliminary plan and a final plan.

A. Sketch Plan Submittal:

The applicant is urged to present the Planning Board for formal review and comment, a sketch plan of the proposed subdivision. Such sketch plan would show in general terms the layout of lots and any streets or similar items.

B. Preliminary Plan Submittal:

A preliminary plan shall be submitted in triplicate by any applicant for subdivision approval. In addition to the preliminary plan, the Planning Board may require that the applicant or others carry out studies deemed necessary or desirable to protect and assure the health, safety and welfare of the citizens of the Town, including the future occupants of the subdivision, whether residential, commercial, or industrial. The Planning Board shall notify the applicant in writing of the vote of the Planning Board in regard to the preliminary plan.

The preliminary plan shall contain the following information:

1. Name and title of subdivision
2. Date and submittal to Planning Board
3. Boundaries of the tract and North point
4. Name of owner(s), engineer(s) or surveyor(s)
5. Name of all abutting property owners
6. Name and location of all existing streets or roads
7. Proposed location and means of sewage disposal and, if on-site sewage systems are to be utilized, evidence of soil suitability, published soils maps or soils tests by a qualified person
8. Lines and dimensions of all lots
9. Scale of Map (100 feet to the inch is desirable)
10. Right-of-way lines and width of proposed driving surface
11. Location of features, natural and man-made, on or abutting the proposed subdivision such as water bodies, streams, wooded areas, railroads, utilities (high lines, underground telephone lines, water and sewer lines, etc.) water courses, ledge within five feet of the surface, buildings, high water marks, flood information (such

as flood plain soils, flood or record elevations, 100 year flood elevations, aerial photographs of flooding, and reports, studies and information so as to better plot flood contour elevations), and similar features.

12. Name, location, profile, and cross sections, radius of curves of all existing and proposed streets.
13. Kind, location, profile, and cross sections of all existing and proposed drainage structures.
14. Topographic map of the tract with a contour interval of five feet or other interval as may be specified by the Planning Board.

C. Final Plan Submittal:

A final plan shall be submitted by all applicants for subdivision approval. The final plan submitted by the applicant shall consist of three prints and an inked original on cloth or similar materials, capable of reproduction, which shall contain:

1. Existing and final proposed lines of streets, ways, lots, easements, and public or common areas within the subdivision.
2. Sufficient data to determine the location, direction with calculated bearing, and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
3. Location of all permanent monuments properly identified as to whether existing or proposed.
4. The seal and signature of a registered surveyor.
5. Name of the subdivision, street names, and lot and block numbers.
6. The methods of sewage disposal authorized for each lot. A lot by lot soils suitability determination for on-site sewage disposal shall be made by a licensed soils scientist or other qualified person. This determination shall be based on the Maine State Plumbing Code for private sewage disposal. If alternate planned waste disposal systems are to be used, written approval from the Department of Health and Welfare, Division of Health Engineering and/or the Maine Department of Environmental Protection must be present.
7. Suitable space to record on the final plan approval by the Board with conditions, if any, and also the date of such approval as follows:
APPROVED: Town of Smithfield Planning Board SIGNED: (signed by five Planning Board Members)
DATE and CONDITIONS (all conditions listed or referenced to documents on file with the Registry of Deeds in the County)
8. Evidence that the subdivider has filed a certified check or a performance bond to cover the full cost of the required improvements, with the municipal treasurer. Any

such bond shall be satisfactory with the municipal officials and the municipal attorney as to form, efficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years), shall be set forth in the bond for the time within which required improvements must be completed. Before a subdivider may be released from any obligation required by his guarantee of performance, the Planning Board will require certification from the municipal officers based on a field inspection by a qualified technician to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and Municipal codes and ordinances.

SECTION 7. DESIGN AND CONSTRUCTION STANDARDS

The following design and construction standard shall be followed in any subdivision:

A. Minimum Lot Size:

Any lot within a subdivision in Smithfield must have at least 80,000 square feet and not less than 200 feet street or road frontage, with no lot line less than 200 feet, except as provided for in Subsection I, for Cluster Developments.

B. Minimum Standards for Street Design and Construction:

1. Minor streets shall be designed to discourage through traffic.
2. Width of right-of-ways shall be a minimum of 50 feet with 66 feet desirable and the Planning Board may require additional width where the street may reasonably expect heavy usage.
3. The width of traveled ways shall be a minimum of two 10 foot traffic lanes plus 2 foot shoulders on each side and 2 to 1 foot slope to the ditch. The Planning Board may require that additional width be required for streets which will receive heavy usage.
4. The radius of center line curves shall be 100 feet at the minimum, with streets which will receive heavy usage up to 500 feet.
5. The angle of street intersections shall be as close to 90 degrees as possible; but in no case less than 60 degrees.
6. Street grades shall be a minimum of 0.5 percent, a maximum of 10 percent which may be varied by the Planning Board in certain cases. Grade at intersections shall be a maximum of 3 percent within 50 feet of the intersection.
7. Cul-de-sac and dead end streets shall have a maximum length of 800 feet with a minimum property line radius of 100 feet and a minimum turning radius of 50 feet at the closed end. Use of a T-shaped turn-around will be permitted as an alternative.

In the latter case, the turnaround shall be at least 24 feet wide, 40 feet long and shall be located between 50 and 100 feet from the end of the street (all dimensions cited for the T-shaped turnaround are for the traveled way).

8. Construction of streets shall conform to the requirements of the Town of Smithfield Road Ordinance or shall meet the following minimum requirements:
 - a. 18 inches of road base bank gravel with no rocks larger than 8 inches shall be required.
 - b. 4 inches of upper base fine bank run gravel (with no stones larger than 2 inches) shall be required.
 - c. Road crown shall be at least 1/4 inch/one foot.
 - d. Bituminous paving 3 inches thick (2 inch base, 1 inch surface) may be required.

*All street construction shall conform to good engineering practices and be suitable for the intended usage of the street. The developer will notify the selectmen when the road is completed.

*No street or road shall be constructed until the Board of Selectmen has been furnished with a bond; said bond shall be in the amount of \$6.00 per foot in length of said street or road with a minimum of \$6,000.00 regardless of length.

*The Road Commissioner and Selectmen will periodically inspect the road during construction to insure that it meets Smithfield specifications. The bond will be released when the Road Commissioner and Selectmen determine that the road meets Smithfield specifications.

*The acceptance of the road by the Selectmen releases the bond but does not establish the road as an accepted Smithfield Town Road; the Town must vote whether or not to officially accept the road (i.e., plowing, maintenance).

C. Easements and Open Space

The Planning Board may require easements for sewage, drainage, and other utilities and may require the reservation of open space for recreation, school site, and drainage. Such open space may be required to be landscaped with trees and ground cover.

D. Public Utilities and Facilities

All public utility and facility companies must approve all proposed connections to the subdivision in regard to line size, hydrants, connections, etc. All public utilities and facilities, such as sewer, gas, electrical, must be constructed so as to minimize or eliminate flood damage. All new or replacement water supply systems and/or sanitary systems shall be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utility and facility installations must conform to State and Municipal regulations codes and ordinances.

E. On-Site Waste Disposal

All on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding. All on-site disposal systems shall conform to all appropriate State and Municipal regulations, codes, and ordinances.

F. Surface Water Drainage

The Planning Board may require the installation of ditches, catch basins, piping systems, and other appurtenances for the conveyance, control, or dispersal of surface waters. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

G. Markers and Monuments

All permanent markers and monuments shall be placed in the locations specified on the final subdivision plan prior to the sale of any lot in the subdivision.

H. Expert Assistance

The Planning Board may request assistance from any State, regional or local agency to ensure compliance with these standards.

I. Cluster Development

1. Purpose

The purpose of this section is to promote flexibility in the design of housing developments to allow for the creation of open space, recreational opportunities, or protection of important natural features.

2. Flexibility in Dimensional Standards

- a. Notwithstanding provisions of this ordinance relating to dimensional requirements, the Board may modify said provisions to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. The Board may allow lots within subdivisions to be reduced in area and frontage below the minimum normally required in return for open space where the Board determines that the design will decrease development costs, increase recreational opportunities and diminish the impact of the loss to open space and natural features. This shall not be construed as granting variances.
- b. The Board may allow for a reduction in minimum lot size to no less than 40,000 square feet for detached single-family units and duplexes, and 20,000 square feet per unit in multi-family structures. An overall density of 80,000 square feet per residential unit, exclusively of land for rights-of-way for streets and

utilities, shall be maintained. The minimum required road frontage may be reduced to 150 feet per lot on public roads, or 100 feet per lot on private roads.

3. Special Application Requirements.

- a. A sketch plan shall be submitted showing the Clustered Development Design and indicating open space and significant natural features to be preserved. Included with the sketch plan must be a calculation showing: 1) gross acreage of the parcel to be developed, 2) amount to be deducted for road and other rights-of-way, 3) number of housing units permitted to be developed (divide by 80,000), and 4) actual acreage to be developed and preserved.
- b. The preliminary plan shall include delineation of land to be designated as open space and lot or lots to be developed, together with actual area calculations for each.
- c. The preliminary plan shall be accompanied by a description of open space, including the amount of open space unusable for recreation on account of steepness or wetness, any improvements proposed (including, but not limited to trails and playground equipment), and proposed ownership of the open space. If ownership of the open space is through a lot owner's association, a sample of legal documents necessary shall be submitted.
- d. Each building or building site shall be shown on the preliminary plan. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this ordinance.

4. Requirements for Developed Lots within a Clustered Development:

- a. Developed area shall meet all requirements of this ordinance except the dimensional requirements as presented to the Board.
- b. No building shall be sited on slopes steeper than 25%, within 200 feet of the high-water mark of East Pond or North Pond, or within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
- c. The distance between buildings shall not be less than 20 feet.
- d. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

5. Requirements for Open Space within a Clustered Development

- a. No less than 30% of the reserved open space shall be usable for public recreation. The sub divider shall specify at time of application whether the open space will be accessible to the general public.
- b. The open space shall be easily accessible from a public or private way or be contiguous to every newly-created lot. In no case will a lot be located more than 1,000 feet from the access to reserved open space.
- c. The sub divider shall definitely establish who will own the open space following development. The open space may be owned by an individual, dedicated to the Town, or to a separate association dedicated to its preservation. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement properly executed prohibiting future development.
- d. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the open space.
- e. Where a Clustered Development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the open space.

J. Common Property and Facilities

1. All common property and facilities, including but not limited to open space, community buildings, roads, and utilities, shall be placed under the management of an entity qualified and responsible for its use and maintenance. Where a lot owner's association will be formed, the Articles of Incorporation, Bylaws, and Covenants shall, in combination, provide for the following:
 - a. The association shall have responsibility for maintaining the common property or facilities.
 - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - c. Membership in the association is mandatory for owners of land within its jurisdictional area. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

- d. The sub divider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the sub divider.

SECTION 8. ENFORCEMENT

Any person, firm, corporation or other legal entity who sells, leases or conveys for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1000 for each sale, lease or conveyance for consideration, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.

SECTION 9. VARIANCE

Where the Planning Board finds that extraordinary and unnecessary hardships may result from the strict compliance with these standards or where there are special circumstances of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secure; provided that such variance will not have the effect of nullifying the intent and purpose of these standards.

SECTION 10. RESUBDIVISION

After approval of a plan plat by the Planning Board, any additional division of land within or contiguous to that plat or any change to lots or privately owned right-of-way created by the subdivision shall be classified as a subdivision and shall be subject to the full requirements of these regulations for review and approval.

SECTION 11. EFFECTIVE DATE

The effective date of this Ordinance is the date of adoption by Town Vote.